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SUMMARY RECORD OF THE 27th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 26 March 1997, at 6 p.m.

Chairman: Mr. SOMOL (Czech Republic)

later: Mrs. BAUTISTA (Philippines)

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The meeting was called to order at 6.10 p.m.

QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT, IN PARTICULAR:

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(d) QUESTION OF A DRAFT OPTIONAL PROTOCOL TO THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT (agenda item 8) (continued) (E/CN.4/1997/4 and Add.1, 2 and Corr.1 and Add.3, 7 and Add.1 to 3 and Corr.1, 25 and Add.1, 26, 27 and Add.1, 28, 29 and Add.1, 30, 31 and Add.1, 32 to 34, 55 and Corr.1, 103 and 104; E/CN.4/1997/NGO/3, 4, 7, 8, 20, 22, 23 and 29; E/CN.4/Sub.2/1996/16, 17, 19 and Corr.1 and Add.1; A/51/465 and 561)

1. Mr. ULUCEVIK (Observer for Turkey) said that the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression had noted in his report on his mission to Turkey that the Government of that country was faced with the difficult task of protecting all citizens of the Republic of Turkey from terrorism without infringing their human rights. Despite the terrorist campaign which had been raging in Turkey for some 10 years, the Government had in 1990 initiated a process of reform which had gained momentum in 1995 with the amendment by Parliament of the preamble and 14 articles of the Constitution in its concern to ensure greater participation by civil society in politics. That had been followed by the amendment of the Anti-terror Law, which had led to a substantial extension of the limits of freedom of thought and freedom of expression and the release of nearly 300 persons who had been convicted for their opinions.

2. The Government and people of Turkey were very sensitive to allegations concerning acts of torture and disappearances. Torture and ill-treatment were prohibited by the Turkish Constitution and the laws in force in Turkey also treated an act of torture as a punishable offence; nevertheless, the Turkish Government had felt that there was a need to enforce further measures to prevent the occurrence of such abuses and the act which had come into force on 12 March 1997 had as its principal objective the eradication of torture throughout Turkey. Periods of detention in police custody and pre-trial detention had been brought into line with European standards and access to legal assistance was guaranteed to detainees at any time; the law also restricted the competence of the State Security Courts to crimes against the integrity and the authority of the State.

3. As part of the reform process, a special unit had recently been set up to look into alleged cases of disappearances and had already come up with findings on 187 cases mentioned in the bulletin of the Turkish Human Rights Association, the majority of which had not been substantiated.

4. Turkey had been cooperating, and would continue to cooperate, with the United Nations human rights system and had left none of the communications it had received from the special rapporteurs without a reply. The recent visit of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression was a concrete example of Turkey's cooperative attitude; the Government would study carefully the observations and recommendations set out in his report, which was both balanced and objective. Turkey considered that the special rapporteurs should act in the discharge of their mandates in a manner conducive to constructive cooperation between the United Nations system and the individual countries, since if they failed to take account of the contents of the replies they received from countries to their questions, or if they continued to give the impression in their reports that certain terrorist groups were legitimate political parties or if they had the audacity to change in their reports the names of cities in United Nations member countries, thus displaying a biased attitude against them, his Government feared that the promotion of cooperation between individual countries and the United Nations human rights system would be complicated.

5. Mr. KUZNAR (Observer for Poland) noted that the United Nations had done much to eradicate the practice of torture but that it was still not enough since the phenomenon continued to exist in many countries, including member States of the Council of Europe. The efforts of the United Nations should be focused on strengthening supervisory and preventive mechanisms; its primary duty was to urge all States to ratify or to accede to the Convention against Torture and to ask State parties to withdraw their reservations. Since only half of the United Nations Member States were covered by the mechanism provided by the Convention, the United Nations should seek other ways of ascertaining the existence of cases of torture; the resolution 1503 procedure could be used systematically for the purpose - that was not yet the case although the extent of torture in many countries would justify its use - provided that it was ensured that it was not abused in cases which did not concern gross violations of human rights. Subsequently, the Commission on Human Rights should ask its Working Group on the preparation of a draft optional protocol to the Convention against Torture to speed up its work. The principal aim of the protocol was to create a preventive mechanism consisting of a system of inspection and missions to States parties to the protocol. It was regrettable to see a few delegations blocking the negotiations by abusing the notion of sovereignty and distorting the meaning of non-interference. Their insistence on "prior consent" to each mission was in obvious contradiction with the purpose of the protocol and created the legitimate impression that they were doing their best effectively to block prevention under the protocol. Equally in contradiction with the principle of non-selectivity, they erroneously invoked two principles from the Charter of the United Nations while ignoring other more pertinent principles, in particular the self-determination of peoples. As everyone knew, many cases of torture were linked to the struggle for self-determination, whether in its domestic or its international dimension.

6. In the resolution it was about to adopt, the Commission should express its deep concern at the persistence of torture and send a clear signal to the Working Group that it should not allow itself to be discouraged by those few who wanted to render the United Nations ineffective in the face of acts of

torture. His delegation unreservedly supported the omnibus resolution on torture and other inhuman treatment; it fully endorsed the recommendations aimed at enhancing the efficiency of the Special Rapporteur and other bodies and mechanisms and shared the idea contained in the draft resolution of preparing a report on torture worldwide.

7. Mrs. Bautista (Philippines) took the Chair.

8. Mrs. GWANMESIA (Observer for Cameroon) pointed out that her country was a party to most of the international human rights instruments and had been one of the pioneers of democratization and multipartism in sub-Saharan Africa in 1990. In December 1990, a set of laws had been promulgated which had ushered in a new era of freedom, and Cameroon currently had more than 100 political parties, while freedom of expression was guaranteed and private newspapers proliferated throughout the country. On 18 December 1996 Cameroon had amended its 1972 Constitution, raising the judiciary to a power and thus consolidating the principle of the separation of the three powers. Fundamental rights and freedoms had become an integral part of the substantive provisions of the Constitution and were actionable in the courts of law.

9. In December 1996, the Penal Code had been amended to include the definition of the crime of torture. There were currently no prisoners of conscience in Cameroon; any arrests or detentions anywhere in the country concerned common law offences. The rights of a suspect or an accused person to the counsel of his choice and of access to free medical treatment were recognized and guaranteed. Statements by accused persons recorded under duress were inadmissible in a court of law and law enforcement officers periodically received human rights training. Competent magistrates made surprise visits to check that provisions concerning detention were observed and to identify abuses. The National Human Rights Commission established by decree in 1990 was endowed with wide powers in that respect.

10. There were currently no cases of enforced or involuntary disappearances in Cameroon. However, the Government's political detractors sometimes made allegations of disappearances in their concern to attract sympathy from the international community and certain bodies on occasion levelled accusations against the Government without proper verification. Her Government thus considered the allegations of the Special Rapporteur on torture in document E/CN.4/1997/7/Add.1, page 14, to be unacceptable; they seemed to take their inspiration from Government opposition party propaganda and were completely unsubstantiated. All persons in Cameroon were subject to the law and no one could claim immunity on the grounds of membership of a political party. The arrest of several persons belonging to the same political party was not proof of anti-opposition party activity and it should be stressed that the persons named in the Special Rapporteur's report had been suspected of breaches of the country's laws and had been released shortly after interrogation.

11. The Working Group on Enforced or Involuntary Disappearances referred on page 20 of its report (E/CN.4/1997/34) to six disappearances in 1992. The Government had consistently denied that claim and no verifiable evidence had yet been advanced to sustain the allegations. Treaty bodies and NGOs working to prevent torture and other cruel, inhuman or degrading treatment should

treat allegations of human rights abuses with great circumspection in order to avoid tarnishing the image of States with unscrupulous allegations.

12. Human rights, democracy and development were interrelated; development was the sine qua non for the effective enjoyment of human rights and the practice of democracy. The obligation of development was the affair of the entire international community - the developed as well as the developing nations - but the developed countries imposed certain parameters on the developing countries for their support and formulated new ones when the old ones had been met. Fairness should prevail in that respect and her Government felt very strongly that the results or any other criterion for the commitment of the developed nations should apply to all nations equally and that the benefits of such achievements should accrue to all deserving nations equitably and without prejudice.

13. Her delegation considered that some human rights issues were anachronistic given current trends and therefore urged the Commission to reflect profoundly on two aspects with a view to adopting a resolution: that the expression "human rights and obligations" should be kept to refer to the activities of United Nations bodies, in the spirit of article 29 of the Universal Declaration of Human Rights and article 27 of the African Charter on Human and People's Rights, and that "complementarity" should replace "equality" in referring to the relationship between men and women since the concept of equality between men and women seemed to be a contradiction in terms and bore no relation to reality.

14. Mrs. GENEFKE (International Rehabilitation Council for Torture Victims, IRCT) said that her organization, made up of health professionals from all over the world, had for some 20 years been taking apolitical action for the rehabilitation of victims of State torture, which was still being used in a third of the countries of the world. Many of those professionals were in danger of becoming victims themselves as a result of their action; they desperately needed protection and financial support. The Commission on Human Rights could do a great deal, initially through the United Nations Voluntary Fund for Victims of Torture which in 1997 had received only US$ 1.2 million - shamefully little for its needs. By contributing to the Fund, donors showed their disgust for dictatorships which practised torture and the money, which reflected moral support, contributed to protecting the many people involved in combating torture and supported the process of democratization. Only 102 countries had ratified the United Nations Convention against Torture and its implementation left much to be desired, particularly with regard to article 10, since very few of the ratifying countries had systematized the training of the relevant categories of public officials. The implementation of article 14, which provided for the moral, medical and financial rehabilitation of victims, was equally unsatisfactory; and yet it was not difficult to implement those two articles with the knowledge and competence already accumulated. It was not texts that were lacking, but the will to act and the Commission was doing very little in practice.

15. Mr. SOTTAS (World Organization against Torture) said that it was on the basis of the capacity of the Commission on Human Rights to put an end to the practices of torture, summary executions and enforced disappearances that public opinion judged the efficiency and the credibility of the international

machinery for the protection and promotion of fundamental rights as a whole. However, it had to be recognized that some of the situations which the Commission had had to deal with in recent years provided a dramatic illustration of the shortcomings of international action in that regard.

16. With regard to Turkey, the cases handled by his Organization led it to the same conclusions as the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, namely, that the practice of torture and other forms of serious ill-treatment of persons in police custody - suspected of ordinary offences or detained under anti-terrorist legislation - was widespread, particularly when people were being held for questioning, despite the numerous instructions and circulars issued by the Turkish authorities. In Sri Lanka, cases of torture, rape, summary executions and enforced disappearances had continued to be reported over the past year by the human rights organizations; his Organization had even had to cancel an invitation to victims to testify to the atrocities to which they had been subjected because of the fears they had expressed of reprisals against their families, which clearly revealed the loss of trust in the protection which the main international body for the protection and promotion of human rights could offer. The information in the possession of his Organization concerning the way in which justice was dispensed in Rwanda could only induce extreme pessimism as to how the situation would develop. Many of the perpetrators of the genocide against the Tutsi minority continued to go unpunished, while persons whose sole crime was to have tried to escape the carnage were arrested on the basis of vague accusations and subjected to unacceptable conditions of detention. In the case of neighbouring Burundi, it was feared that the declarations and resolutions adopted would remain null and void. The Special Rapporteur on Burundi had described the current situation as "genocide by attrition". His Organization could not confirm that view, which was based on reliable testimonies of torture and massacres. The Commission had finally appointed a Special Rapporteur on Zaire, but, due to its tardy adoption, the measure was proving woefully inadequate; following decades of gross violations of human rights, Zaire was sinking into civil war. Well-documented information on the nature of the regime had not been lacking, however, but there again the international institutions had never been able to adopt means of ensuring compliance with the resolutions adopted. The award of the 1996 Nobel Peace Prize to Monsignor Belo and Mr. Ramos-Horta had constituted international recognition of the struggle of the inhabitants of East Timor to ensure respect for their rights and dignity, and it could only be regretted that the time had not yet come for the voices of the victims they represented to be heard in the Commission on Human Rights.

17. Mr. PAPPALARDO (France-Libertés) drew the Commission's attention to the large increase in arbitrary arrests and imprisonment, in Tunisia in particular. Practices observed in recent years proved that Tunisia continued to violate most of the international human rights treaties it had ratified. The arbitrary arrests and detention, the torture and ill-treatment, the unfair sentences and systematic harassment of the leaders of opposition parties, human rights defenders and lawyers were intended to intimidate them and reduce them to silence, using the combat against fundamentalism as a pretext. The Tunisian authorities were also harassing the NGOs, which played a vital role in the promotion of all human rights. The President of the Tunisian section of Amnesty International had been subjected to identity checks and had been

stopped and questioned about the section's activities. Following its statement to the Commission in 1996, his organization (France-Libertés) had received a letter from the Permanent Mission of Tunisia in Geneva inviting its President to improve his acquaintance with the situation in situ. Although France-Libertés had replied affirmatively, the invitation had never been confirmed, which suggested that the Tunisian authorities had something to hide. In October 1994, the Human Rights Committee had expressed its concern at the widening gap between the law and practice with regard to the guarantees and protection of human rights in Tunisia; his organization therefore requested the Commission on Human Rights to remedy the situation and make it possible for the non-governmental human rights organizations to go to Tunisia to carry out their tasks and produce an objective testimony.

18. His organization also wished to draw attention to the arbitrary detention of personalities from Ethiopia's civil society - journalists, religious leaders and trade unionists - and to remind the Commission that, in Burma, Aung San Suu Kyi was under house arrest and that, in Turkey, Mrs. Leyla Zana was still unjustly imprisoned.

19. Mrs. LUON THI NGA (Pax Romana) said the Government of Viet Nam, which had long denied the existence of political prisoners, had officially admitted before the Commission in February 1995 that more than a million collaborators of the former South Vietnamese regime had been interned for a time in rehabilitation camps. Instead of being rehabilitated, the South Vietnamese political prisoners who had been arbitrarily interned for many years without trial had been subjected to cruel, inhuman and degrading treatment, the most atrocious of which had been their use in mine-clearing operations. Instead of appealing to the international community to help in clearing the anti-personnel mines left on Vietnamese soil by the various parties to the 30-year war, the Vietnamese Government had sent those political prisoners to the minefields, well aware that they would be working blind and with their bare hands. According to the testimony of survivors, many of those unfortunates had been appallingly mutilated or killed during the mine-clearing operations. While the prisoners suffered in their camps, their wives and children had been forcibly driven from their homes and deported to the new economic areas - actually disguised forced-labour camps for the civilian population - and their property confiscated; worse still, some of the wives of political prisoners had been raped by Vietnamese Communist Party officials. Although the Vietnamese Government denied the facts, she was prepared to provide particulars of the witnesses to the competent United Nations authorities under oath of secrecy since reprisals were liable to be taken against members of their families living in Viet Nam.

20. Mrs. JOSEP (Pax Romana) said that in Peru, on 26 August 1996, soldiers from the "Monzón" military base searching for a woman called Juana Aguirre and not finding her in her village of Huancarami had arrested all women with the same name along with their children. Three days later, in order to end the injustice, Mrs. Juana Aguirre gave herself up voluntarily with her five-year-old daughter and both were arrested. During the night, Mrs. Aguirre was tortured and raped by a lieutenant of the Peruvian army who then handed her over to other soldiers as their booty. The little girl also underwent ill-treatment. The same persons subsequently arrested a man whose body was found several hours later. The Amnesty Act adopted by the Peruvian Government

meant that crimes of that nature went unpunished although the Human Rights Committee had considered that such amnesties were incompatible with the obligation of States to ensure that such acts were not repeated in the future. It would therefore be appropriate for the Commission on Human Rights to adopt a declaration condemning the impunity enjoyed by perpetrators of human rights violations in Peru.

21. Mr. VITTORI (Pax Christi International) reported on a number of tragic cases in East Timor and Kosovo, described in a document available to the Commission, and then read out a message from Monsignor Belo - 1996 Nobel Peace-Prize Winner - drawing the Commission's attention to the situation of detainees in Timor who were routinely tortured, slapped and kicked and punched, and asserting that the situation of human rights in East Timor was not improving.

22. Mrs. BAUER (Article XIX) welcomed the fourth report of the Special Rapporteur on freedom of opinion and expression. Since the right to seek, receive and impart information was most often at risk during the electoral process - particularly in countries where the principle of political pluralism had not yet been firmly established - her organization asked the Special Rapporteur to establish a system with the relevant inter-governmental bodies and non-governmental organizations, in such countries where elections were to take place before the end of the year, to ensure that laws, practices, policies and administrative measures affecting the conduct of free and fair elections and the right to receive and impart information were consistent with international standards. Her organization also asked the Special Rapporteur to analyse in his next report the role that laws on access to information could and should play in facilitating popular participation, and to comment on the protection of sources for persons writing on matters of public interest and providing information that Governments were attempting to suppress on the basis of "a supposed need to maintain discipline or political order and stability".

23. Her organization also wished to draw the Special Rapporteur's attention to the decision by the United Nations Department of Public Information to charge accredited NGOs an annual sum of US$ 1,125 for access to the optical disk system. It deplored that decision and opposed on principle any system of payment of that type since the peoples of the United Nations had the right to receive - without charge and through any media of their choice - all documents produced by the United Nations and already in the public domain. It called on the Special Rapporteur to use his good offices to ensure that the policy was discontinued immediately if it had already been implemented, or otherwise to refrain from introducing it.

24. Mrs. RISHMAWI (International Commission of Jurists) said she was disturbed to note that, despite the privileges and immunities accorded under international law to the Special Rapporteur on the independence of judges and lawyers, a civil suit had been filed against him in a Malaysian court. The Centre for the Independence of Judges and Lawyers (CIJL) of the International Commission of Jurists had added its voice to that of the Secretary-General of the United Nations and called on the Malaysian Government to respect its international obligations; it was confident that the matter could be settled without reference to the International Court of Justice. The continued need

for the work of the Special Rapporteur was confirmed by the findings of the Centre's annual report which showed that in 1996 at least 462 jurists in 52 countries had suffered reprisals for carrying out their professional duties.

25. In Colombia, the field office of the United Nations High Commissioner for Human Rights was still not operational a year after being opened and the Colombian Commission of Jurists maintained that impunity for political crimes was virtually 100 per cent. Peru had issued decrees that undermined the proper administration of justice. In Nigeria, the Government had still not abrogated the decrees establishing special tribunals or those revoking normal constitutional guarantees. In Bahrain, the jurisdiction of the State Security Courts had reportedly been extended to offences previously handled by the regular criminal courts, such as arson and assault on public servants; there was no presumption of innocence in those courts, which held sessions in camera and failed to investigate allegations of torture. In Turkey, the State Security Court system continued to cause concern; writers, journalists, human rights activists and lawyers were tried, commonly under article 8 of the Anti-terrorist Act, before those courts, which admitted confessions extracted under torture. In Brazil, the police were involved in serious human rights abuses, including the extrajudicial execution of street children and acts of torture. In Ethiopia, more than 70 judges had been dismissed in 1996 in violation of constitutional and other applicable provisions.

26. The International Commission of Jurists welcomed the report of the Working Group on Arbitrary Detention and recommended that its mandate should be extended to enable it to consider cases of arrest and detention, even if they were being examined by a domestic judge.

27. It also asked the Commission to circulate the draft basic principles and guidelines on the right to reparation for victims of violations of human rights and international humanitarian law, prepared by the former Special Rapporteur, Mr. van Boven, to Governments and to intergovernmental and non-governmental organizations for comments and observations. It also requested the Commission to ask the former Rapporteur to submit to the Commission at its fifty-fourth session a revised version of the draft principles, taking into consideration the comments and observations received.

28. Mr. FABBRO (International Prison Watch) said he was very concerned about the fate of detainees in Latin America. Although the prison system varied from one country to another, his organization had observed that conditions of imprisonment were inhuman in many Latin American prisons, especially in Colombia, El Salvador, Nicaragua and Venezuela, all countries where premises were antiquated, maintenance poor or infrequent and accommodation for prisoners cramped and unhygienic. In addition to Latin America, there were many other countries where prisoners' rights were flouted, since human rights stopped at the prison gates; his organization therefore requested the Commission on Human Rights to appoint a Special Rapporteur on prisons.

29. Mrs. HALL (Human Rights Watch) recommended that the Special Rapporteur on human rights and states of emergency should be given a mandate by the Commission to undertake an intensive investigation of the emergency regime in Northern Ireland and make recommendations for the restoration of essential human rights guarantees. The extension of the state of emergency in Northern

Ireland left persons in detention vulnerable to physical and psychological forms of ill-treatment. A detainee could be held for up to seven days without charge, in direct contravention of the right to a fair trial guaranteed by the European Convention on Human Rights. Fundamental respect for human rights was essential for a just and lasting peace in Northern Ireland. Her organization was also concerned about the excessive use of force by the police in Northern Ireland and renewed its call for a ban on plastic bullets, which had killed 14 people and caused hundreds of injuries in Northern Ireland over the last 25 years.

30. Her organization was also firmly convinced that the Working Group on Arbitrary Detention should continue to take decisions concerning cases of detention after sentencing and not limit its area of concern to cases of detention before a judicial decision, since that would be tantamount to introducing a form of selectivity when it was clear from the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, the only international instrument that established a distinction between the two terms, that human rights standards applied to the deprivation of liberty both before and after trial.

31. Mr. WOLDEMARIAM (International Movement for Fraternal Union among Races and Peoples) requested the Commission to appoint a special rapporteur to study the situation of human rights in Ethiopia, since his organization had photographs and video-cassettes which established that the Government of Ethiopia was guilty of human rights violations even though some Western States regarded the current repressive regime in Ethiopia to be an emerging democracy and even denied that extrajudicial executions had taken place in the country. Every year, Ethiopians were murdered with complete impunity, without any judicial proceedings, others were tortured, still others were victims of involuntary disappearances and tens of thousands of people were still being held without trial. The opposition political parties existed in name only and the regime was hostile to trade unions, independent journalists, the Ethiopian Council on Human Rights, university teachers and even judges and prosecutors. Religious institutions were not spared the violence of the regime and the security forces had several times killed worshippers, in both churches and mosques, in various regions of the country. Some months previously, the Government had carried out what it had referred to as a redistribution of land, with the aim of dispossessing thousands of peasants of their land, and reallocating it to officials of the regime in force.

32. Mr. SAFA (Arab Organization for Human Rights) drew the Commission's attention to the fate of some 150 Lebanese citizens held without trial by Israel in Khiam camp, some of them since 1985; 14 had died under torture. Israel had released 45 detainees in July 1996 as part of an exchange of prisoners but it continued to kidnap other Lebanese. Lebanese detainees were also to be found in prisons in Israel and the Israeli authorities prevented their families from visiting them. The Israeli authorities had also forced families in villages in South Lebanon to leave their homes, in breach of the Fourth Geneva Convention. Israel was further guilty of massacres which constituted a crime against international peace and against humanity. The Israeli army and their militia allies continued to bomb villages and attack civilians. All defenders of human rights should therefore work towards the establishment of an international tribunal to try the Israeli perpetrators of

those massacres, particularly the massacre in Cana which had caused 106 casualties on a United Nations base in April 1996. His Organization therefore urged the United Nations, human rights organizations and the various international organizations to break their silence and launch a worldwide campaign for the release of arbitrarily detained Lebanese nationals, the cessation of expulsions, a stop to wholesale bombings and an end to human rights violations in the occupied territories and Israeli prisons. The various reports submitted under agenda item 8 unfortunately made no mention of the hundreds of Lebanese detained in Israeli prisons; the matter needed to be investigated, all the necessary information having been supplied in a document distributed to the members of the Commission.

33. Mr. BHAN (Himalayan Research and Cultural Foundation) said that the wrongful detention of individuals had taken on another dimension with the growing practice of hostage-taking by terrorist groups. Terrorist groups were very often merely the instrument of some States concerned to further their political and territorial aims without running the risk of becoming involved themselves in armed hostilities. Such groups were thus encouraged to violate the basic human rights of innocent persons and it was a matter of concern that the international community in general and the Commission on Human Rights in particular had so far been unable to devise any mechanism to protect the population against being taken hostage by terrorists or mercenaries. It should be recalled that the Sub-Commission on Prevention of Discrimination and Protection of Minorities at its forty-seventh session had condemned the murder of a Norwegian hostage by a terrorist group in Jammu and Kashmir and had considered that the taking of hostages constituted a blatant violation of the human rights and minimum humanitarian standards applicable by all parties in all situations. The group was still holding several hostages but the international community had done very little to demand an accounting from the country which supported that group. The Foundation thus urged the Commission to recommend to the Security Council and the General Assembly that they should initiate action against countries from which terrorist groups publicly operated openly and which proclaimed their involvement in violence in other countries.

34. Mrs. BOWDEN (Liberation) welcomed the recommendations and conclusions contained in the respective reports of the Working Group on Arbitrary Detention and the Working Group on Enforced or Involuntary Disappearances and applauded the efforts of the Special Rapporteur on torture to eradicate custodial violence. Her organization was disturbed by reports that, despite the prohibition of torture and ill-treatment, they continued to be used particularly against minority communities. States had a legal and moral responsibility to refrain from using violence to combat perceived threats to their stability; the Commission's attention should be drawn to several country situations. In Turkey, the conflict between the security forces and the Kurds continued to give rise to human rights violations, including hundreds of disappearances in detention, custodial ill-treatment and the arrest of tens of thousands of persons for political reasons. In Tibet, the practice of torture remained endemic in police stations and detention centres, while large numbers of Tibetans seeking a peaceful solution to the Tibet issue disappeared or were arbitrarily detained. In India, serious violations persisted, particularly in Kashmir, Assam, Manipur and other north-eastern States and Punjab. Despite its efforts, the Indian National Human Rights Commission was over-stretched

with thousands of allegations of abuse and the Indian Government had recently warned the judiciary to control its "activism" or face legislative constraints. Continued human rights violations in India suggested that the country need to restructure its security forces and change its laws; the Centre for Human Rights could offer assistance in that respect. Her organization recommended that India should ratify and implement the Convention against Torture and allow the Special Rapporteur on torture and the Working Group on Enforced or Involuntary Disappearances to carry out investigations in situ.

35. Mr. PONNANBALAM (International Educational Development) drew the Commission's attention to the violations of the human rights of Tamils in Sri Lanka. The war waged against the Tamils in the north-east of the country for the past 15 years was escalating into genocidal proportions; all the provisions of the Geneva Conventions and their additional Protocols were being violated. The Government's security forces persecuted Tamils throughout the island with arbitrary arrests, indefinite detention, torture, involuntary disappearances and extra-judicial executions. The Sri Lankan Government also permitted the existence of paramilitary groups in the pay of politicians. The perpetrators of human rights violations enjoyed total impunity and immunity. The many violations suffered by Tamils had been catalogued by several organizations, both in Sri Lanka and abroad, and a document had been expressly prepared for the current session of the Commission by the Tamil Centre for Human Rights. Those human rights violations were the result of the occupation of the Tamil homeland by an alien Sri Lankan army - alien because its composition was 99 per cent Sinhalese who neither spoke nor understood Tamil nor had any understanding of the religion of the Tamils' religion. The continued presence of the Sinhalese army could only lead to further violations of human rights and obstruct any attempts at a negotiated political settlement. The plight of the Tamils in Sri Lanka therefore demanded an urgent and immediate response from the international community; members of the Working Group on Arbitrary Detention and the Special Rapporteur on torture needed to go to Sri Lanka to investigate the situation of human rights and humanitarian law.

36. Mrs. BRETT (Friends World Committee for Consultation) said that it was time that human rights bodies turned their attention to the use of torture and other inhuman or degrading treatment or punishment within the armed forces. The problems fell into four major categories: abusive recruitment, initiation rites, general harassment and official practices. In some countries recruitment itself was forcible, with the military forces conducting sweeps of poor urban and rural areas collecting military-age and under-age youths; the victims were often beaten and insulted. A variety of brutal and humiliating rituals were practised on new recruits the world over and could sometimes result in death or permanent physical or mental damage; sexual assault and even rape sometimes took place on such occasions. Ill-treatment of the same kind might continue beyond the initiation stage and form part of a continuing pattern of harassment; harassment and intimidation were sometimes seen as a means of establishing discipline among the new recruits and the cycle tended to be self-perpetuating since conscripts who had been badly treated tended to behave in the same way to the next intake. As an institution, the armed forces clearly needed discipline within their ranks, as well as the physical fitness of their members, but there was a need to examine the limits of what

was acceptable and compatible with human rights standards; in different countries and regions of the world, attention had been drawn to cases in which methods used for "toughening up" or punishment had caused death, permanent physical disablement or mental damage so severe as to require institutionalization. The impunity of those budding torturers was total in most instances, making it imperative for the international community to take action. Individuals who became members of the armed forces did not lose the benefit of their human rights, although their special position could legitimize certain restrictions. Her organization urged the Commission on Human Rights to request the Sub-Commission on Prevention of Discrimination and Protection of Minorities to undertake a study on how existing international human rights standards applied to members of the armed forces (both conscripts and volunteers) and how their human rights could be better protected.

37. Mr. ALI (Afro-Asian People's Solidarity Organization), referring to the report of the Special Rapporteur on torture on the question of torture in Pakistan following his visit there in early 1996, noted that the reins of power were still held by people who clung to the values of their feudal past. At the time of its creation, Pakistan was a multi-ethnic and multi-religious society but the concern of the majority community to consolidate its power had led to the framing of a constitution and legal principles that reduced minorities - Christians, Hindus and others along with several Muslim sects - to second class status. Women found themselves in a position of inferiority to men. Successive military dictatorships had permitted the creation of rabid sectarian groups whose sole objective was the perpetuation of their ideology, regardless of the beliefs and customs of the country's other citizens. Dictatorship succeeded dictatorship but the underlying ethos - that all persons were not equal, had not changed either under the Constitution or before the law. That ideology had also permeated the education system. The schools taught a sectarian curriculum and implicitly condemned the way of life, religion and thought of other communities. The ethnic mix of Pakistan, which should have been its strength, had become its weakness since in the struggle for power it had become necessary to play off one ethnic group against another in order to ensure that the balance of power between the military and feudal elites was not disturbed. It was currently the Mohajirs who were the target of State power; some years previously it had been the Sindhis and in the seventies it had been the Baloch. Recently, it had been the Christians whose homes and churches had been burned and their lives put in jeopardy. Women had suddenly found their rights curtailed. The Special Rapporteur had concerned himself with all the forms of illegal detention and torture currently practised in Pakistan, but the issue could not be treated in isolation as a technical study, since it was a question of the ethos of the rulers of Pakistan and, unless an effort was made to change the country's structures, the elite in power would always consider the right to oppression their fundamental right and the denial of the rights of others a natural consequence of that right.

38. Mrs. SHAUMIAN (International Institute for Peace) said that terrorism and in particular its most dangerous form - hostage-taking for political or criminal purposes - constituted a violation of the human rights of their victims and in particular their right to life and human dignity. Hostage-taking frequently took place in zones of armed conflict and military actions such as Kashmir, the former Yugoslavia, Chechnya and Tajikistan.

Lately, the victims of terrorists and hostage-taking had increasingly been the employees of international charity organizations involved in humanitarian operations. By their acts, terrorists often sought to attract the attention of world opinion and obtain some form of recognition. The fight against terrorism in general and hostage-taking in particular implied the full cooperation of the entire international community, so that the perpetrators of such acts would know that they would not go unpunished wherever their crimes had been committed.

39. Mrs. BAUTISTA (Latin American Federation of Associations of Relatives of Disappeared Detainees) said that enforced disappearances, torture and other cruel treatment and arbitrary detentions continued to take place throughout the world, especially in Latin America, for example in Mexico, Colombia, Peru and Guatemala, despite the advent of supposedly democratic regimes. In Mexico, hundreds of such cases had been recorded in 1996, especially in the form of arbitrary arrests and imprisonment in the poorest states, but the perpetrators of violations had not received the least disciplinary or criminal sanction; native peoples, peasants and human rights defenders were particular targets in the context of a militarization exacerbated by the emergence of subversive groups in rural areas. In Peru, arbitrary detentions already constituted a particularly alarming situation, since in the past three years hundreds of persons had been imprisoned as part of the anti-terrorist policy without standing trial; at the other end of the spectrum, the known perpetrators of human rights violations and paramilitary groups were viewed by the Government with extreme indulgence and had even benefited from an amnesty enabling some 3,000 cases of enforced disappearances to be closed while innocent persons continued to be detained. The Government had, in fact, established a commission which had pardoned some 110 innocent persons, but hundreds of others were awaiting a positive decision. The taking of hostages at the residence of the Japanese Ambassador in Lima could not but be unanimously condemned, but the Peruvian Government should also be called on to honour its international obligations and to go back on its recent decision to forbid prison visits by ICRC. In Colombia, the continued occurrence of enforced disappearances was a matter for concern, as was the persistence of torture - although it was forbidden by law; it was completely unacceptable - in legal and ethical terms - for the Government of Colombia to have asked the Working Group on Enforced or Involuntary Disappearances to consider cases transmitted prior to 1990 having been cleared up since those cases had not been investigated in any depth. Lastly, the Federation drew the Commission's attention to the 523 Sahrawi victims of enforced disappearances.

40. Mrs. AVELLO (Women's International Democratic Federation) said that it was of the utmost importance to put an end to the inhuman and degrading treatment to which a large portion of the prison population was subjected in many countries throughout the world. Her Federation had received numerous complaints concerning the way in which women playing a prominent role in their country's political life had been tried and sentenced. Leyla Zana, a parliamentarian of Kurdish origin held in Turkey, had despite her parliamentary immunity received a 15-year sentence for her commitment to her people and was imprisoned in inhuman conditions; the Rapporteur on violence against women should make an in situ investigation of that unacceptable situation. Soha Bechara, an eminent Lebanese educator, had been held for eight years in a minute cell in Khiam camp and was refused the right to legal

counsel; the Federation called for her immediate release. In Peru, the conditions of detention in Lima's high-security prison of Chorrillos were appalling, as they were at the El Callao naval base, where some women were held; the maximum security prison of Yanamayo, 3,800 metres up in the Andes, had a women's section where the majority of the inmates suffered from lung ailments brought on by the harsh climate. The Rapporteur on violence against women should visit Peru as soon as possible in order to save the women prisoners in those establishments. In Colombia, a human rights activist, Ana Renfigo, had been arbitrarily arrested once, then, following her release, returned to custody on the basis of a false accusation.

41. The Federation supported the observations and recommendations made by the Working Group on Arbitrary Detention, the Special Rapporteur on torture and the Special Rapporteur on the independence of judges and lawyers and hoped that the States in question, particularly those just mentioned, would implement them.

42. Mr. MOKBIL (War Resisters' International) said that the reports by Amnesty International and the Government of the United States of America on the human rights situation in Yemen revealed that gross violations took place in that country. In its prisons, detainees were chained and subjected to torture and other forms of ill-treatment and women prisoners were raped. The President of the Human Rights Commission of Yemen had been kidnapped and beaten by the police. The population - men, women, children and old people - of Aden and other towns in the south and east had been particularly targeted. There was no longer any independent justice since the President of the Republic was also President of the Council of the Judiciary; that was how the results of the April 1996 elections had been validated despite the opposition parties' claims of fraud and the systematic irregularities. In order to put an end to those violations, the recurring conflict in the country must cease and the results of the elections - boycotted by the parties based in the southern and eastern districts - must be annulled, allowing the people of Yemen to advance on the road to democracy.

43. Mrs. LITTLE (Andean Commission of Jurists) said that a process had been initiated in the Andean countries to ensure the independence and the modernization of the judiciary and put an end to impunity and private justice; some positive results had already been achieved, for example in Bolivia where the reform of procedure had considerably reduced the proportion of the prison population awaiting trial. The Commission was monitoring those developments and had established an information network to obtain more detailed knowledge of the judicial systems of the countries of the region for a comparison of structures and legislative experience. Despite the progress achieved, some problems concerning legislation and the operation of the justice system remained and called for circumspection. The most serious was undoubtedly the problem of the impunity of human rights violators and certain organized crime groups. Since the pace of justice was so slow, non-judicial solutions to disputes in most countries of the region and the proportion of persons held unsentenced remained high. Colombia stood out in particular for the inability of its justice system to punish perpetrators of human rights violations. In Peru, the independence of the judiciary was under threat and a penal act introduced in 1992 during a period of emergency remained in force although it should have been brought into line with relevant international legislation;

however, a positive development had been the establishment of an ad hoc commission to recommend presidential pardons for persons - probably innocent - charged with or sentenced for terrorism or treason. More than 120 persons had already been released as a result and many more cases were being examined, but the innocent persons in question still remained to be compensated in accordance with the international standards in force for the judicial error of which they had been the victims. In Venezuela, prison conditions were still inhuman despite a few efforts that had been made and the decentralization process initiated by the new Executive in 1996 as part of a policy to increase the capacity of the prison system. The development of the Andean countries was linked to the success of those judicial reform efforts to bring about a stable, predictable and fair legal order which would provide room for the development of human rights. Such efforts called for the support and supervision of the international community.

44. Mr. ZACKHEOS (Observer for Cyprus) said the fate of those who had disappeared in Cyprus during the invasion of the island by Turkey in the summer of 1974 had still not been elucidated despite action by the international community in adopting a number of resolutions and establishing a committee in 1981 under the auspices of the United Nations, to determine their fate. The committee's work had not really permitted of genuine progress and since the withdrawal of the Secretary-General's representative in March 1996 its work been been suspended. In its concern that the fate of the missing persons should be elucidated in the interests of their families, the Government of Cyprus had assured the Secretary-General that it would do all in its power to facilitate the operation of the Committee on Missing Persons in Cyprus. It hoped that the Committee's work would resume as soon as a new representative of the Secretary-General and all the necessary personnel had been appointed. At the current critical stage, it called on all the parties concerned to provide aid and cooperation to enable a rapid solution to be found to that humanitarian problem; in particular, it called on the Government of Turkey to take the requisite political and humanitarian steps to put an end to a tragic situation which affected Cypriot families of both Greek and Turkish origin.

The meeting rose at 9.05 p.m.